

## National Health Care Reform Legislation: Its Effect on Illinois SLFs

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The Laubacher Company has prepared a summary of the effect on Illinois SLFs of national health care reform legislation signed into law March 2010, the Patient Protection and Affordable Care Act (the “Affordable Care Act”).

The Affordable Care Act deals primarily with the expansion of health insurance coverage with few specific provisions related to reducing health care expenditures.

Within the context of health care reform discussions, Illinois Supportive Living Facilities (SLFs) are a specialized sub-set within the “long-term care” category, which includes nursing homes and the “community-based” settings for long-term care, such as assisted living, visiting nurses and homemakers, meals delivered to homes, personal care attendants and the like.

Over the past three decades, policy makers have sought lower-cost alternatives to nursing home care and responded by expanding Medicaid “home and community-based services” (“HCBS”) programs. Today more than 2.8 million people receive Medicaid HCBS and the demand for services is rising. Yet, the majority (59%) of Medicaid long-term care services spending still goes toward nursing home services.

The primary focus of the Affordable Care Act is health insurance coverage with very limited focus on long-term care. However, the long-term care provisions create opportunities for states to continue shifting their Medicaid long-term care providers away from nursing home care by expanding access to Medicaid home and community-based services (HCBS) programs such as SLFs.

The Affordable Care Act includes provisions for two new initiatives and extension/expansion of three existing programs which will increase funding to states that offer increased availability for services like SLFs.

The two new initiatives are:

- Creating the State Balancing Incentive Program, providing incentive payments of federal match to state Medicaid programs that have not yet diversified their long-term care providers so that at least 50% of Medicaid persons that receive long-term care services are living in “community-based” environments (such as SLFs) rather than the traditional “institutional care” of nursing homes.
- The creation of the CLASS program, a national, voluntary insurance program for purchasing community living assistance services and supports. CLASS will be an insurance program that provides funding for alternatives to long-term care beyond traditional nursing home care. The CLASS program will be administered by US Department of Health and Human Services. The premiums, coverage and benefits for this program are under development by HHS.

The three existing programs that are extended or expanded under the health care reform law which will increase funding to states that offer increased availability for HCBS services (such as SLFs) include:

- Five year extension of the Money Follows the Person (MFP) demonstration through 2016, which provides states with an enhanced federal Medicaid match for twelve months for each Medicaid person transitioned from a nursing home to community- based settings, including SLFs.
- The HCBS State Plan Option Expansions which provides the states with the flexibility to expand their HCBS programs by adding HCBS to their state's core Medicaid program rather than submitting HCBS waiver applications to HHS.
- The Community First Choice Option provides an enhanced federal match of six percentage points for states that provide statewide HCBS through a state plan amendment. This option is designed to give individuals with functional limitations that require an institutional level of care a choice between a nursing home and a setting such as their own home or assisted living.

The Affordable Care Act remains a topic of significant focus for the legislative, judicial and administrative branches of government. Many Republicans are seeking to block, repeal or strike down some or all of the new law. The "individual mandate" continues to make news due to the various court decisions being handed down at various levels. The new CLASS program to provide insurance for community-based long-term care supports needs major adjustments or may be scrapped altogether. ACOs are expected to proceed, either by implementing the new law or via administrative implementation.

Regardless of the fate of the insurance provisions of the Affordable Care Act, there is no expectation of reversal of the 30-years of successive policy initiatives to serve long -term care needs in more hospitable and more affordable environments than nursing homes.